

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Lynn Hambright et al.
Application No.: 10/005,137
Filed: December 5, 2001
Title: A System and User Interface for Use in Billing for Services and Goods
Examiner: Dilek B Cobanoglu
Art Unit: 3626

Pre-Appeal Brief Review Request

Mail Stop AF
Commissioners for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Dear Sir:

This amendment is being filed in response to the Office Action dated May 31, 2006 for which a shortened statutory period of three months ending August 31, 2006 was set in which to respond, the attached Notice of Appeal and Pre-Appeal Brief Review Request is submitted and reconsideration of the rejections is respectfully requested. Applicants submit that this response is timely.

Applicant respectfully submits that no amendments are being filed with this Request. This Request is being filed concurrently with a Notice of Appeal. The Review is requested for the following reasons set forth below.

Rejection of Claims 1-27 under 35 USC § 103(a)

Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pritchard (U.S. Pat. No. 4,491,725) in view of Provost et al. (U.S. Pat. No. 6,341,265).

The present claimed invention describes a method for determining payment for provision of multiple different services based on predetermined reimbursement rules. A record identifying a service provided to a specific entity is received. An item identifying the provided service is automatically grouped together with an item identifying another service provided to the specific entity based on predetermined service record allocation rules. A reimbursement record identifying grouped items is automatically created and a reimbursement amount for the identified

provided service and the other service provided to the specific entity is calculated based on a reimbursement contract. Independent claims 1, 7, 9, 17 and 23 include features similar to those described above. A full listing of the claims as they currently stand can be found in the Amendment filed on March 20, 2006. The arguments presented below are applicable to claims 1, 7, 9, 17 and 23. Applicant respectfully submits that Pritchard and Provost, alone or in combination, provide no 35 USC 112 compliant enabling disclosure that makes the present claimed invention unpatentable.

Provost (with Pritchard) neither discloses nor suggests “automatically grouping an item identifying said provided service together with an item identifying another service provided to said specific entity based on predetermined service record allocation rules” and “automatically creating a reimbursement record identifying grouped items,” as recited in the present claimed invention. Contrary to the present claimed invention, Provost describes a system that is entirely **manually** operated. Specifically, Provost describes a system operated entirely by a technician for claim preparation. Furthermore, Provost extols the speed as an advantage of the use of a manual system. Thus, Provost teaches away from the use of the claimed system which groups items and creates reimbursement records **automatically**. In fact, Provost discloses that “a medical technician can easily create, submit, and, if necessary, revise and resubmit, a single claim before proceeding to the next claim in a series of claims, since the response time can be very short” (Provost, Col. 10, lines 5-9). Provost further emphasizes the manual nature of the system by stating “[t]he present invention relates to methods and systems for interactively preparing and submitting insurance claims and verifying that claims are in condition to be paid. A medical technician at the offices of a health care provider operates a client computer that communicates with a remote server. According to one embodiment of the invention, the medical technician views a computer-displayable claim form displayed by the client computer and enters a diagnosis code and a treatment code that describe a medical diagnosis and associated treatment for a patient” (Provost, col. 5, line 64 to column 6, line 2.) The technician in the Provost system determines what services go on the claim, enters them, and submits data for verification and reimbursement calculation. Any changes to the data on the claim have to be re-entered **by the technician** (Provost, col 11, lines 6-11, 26-28). By nature of manual entering and submission,

Provost is NOT a system that “automatically” groups or creates any data item as in the present claimed invention.

Furthermore, contrary to the assertion in the Rejection, the features of the present invention are not shown in Column 9, lines 23-27 of Provost, or elsewhere. Rather, this passage states “in the example of FIG. 3, includes header information 42 that has been automatically prepared by the server system before claim form 12B was transmitted to the client system.” However, Header information 42 used to populate the form is merely a plan id, insured name, patient name and provider identifier (see Figure 3). This information does not show or suggest or in any way teach or support “automatically grouping an item identifying said provided service together with an item identifying another service provided to said specific entity based on predetermined service record allocation rules” and “automatically creating a reimbursement record identifying grouped items,” as recited in the present claimed invention. The automatic preparation of plan id, insured name, patient name and provider identifier in claim form header information has no bearing on “automatically grouping an item identifying said provided service together with an item identifying another service provided to said specific entity”. There is no 35 USC 112 compliant enabling disclosure of such features or any contemplation of such features in the combined reference.

Additionally, Provost and Pritchard discuss retrospective reimbursement calculation and claim editing. However, these calculations and edits must be performed only after manually (i.e. by the technician) determining which services should be billed together on a claim form so that the user can make corrections and resubmit (Pritchard, col. 7, line 67 to col. 8, line 10; Provost col. 4, lines 7-51). Provost and Pritchard, alone or in combination, provide no 35 USC 112 compliant enabling disclosure of “automatically grouping an item identifying said provided service together with an item identifying another service provided to said specific entity based on predetermined service record allocation rules” and “automatically creating a reimbursement record identifying grouped items,” as recited in the present claimed invention.

Contrary to both Provost and Pritchard, the present claimed invention provides that the system **automatically** determines how services should be grouped for billing and reimbursement

processing is **automatic**. Furthermore, any changes to services or patient encounter data **automatically invoke reevaluation** of grouping, **recreation** of reimbursement record and **regeneration/correction** of the affected claims. Unlike the systems of Provost (with Pritchard), the present claimed invention does not require technicians or data entry personnel to possess knowledge regarding how services should be grouped or billed. Rather, and in direct contrast to Provost (with Pritchard) the claimed system performs these tasks automatically via the predefined rules for grouping, reimbursement and claim generation set up by the customer. The present claimed invention is directed towards large healthcare enterprises consisting of hospitals, clinics, same day surgery centers, emergency rooms, long term care facilities, laboratories, etc., where one patient may receive services in many different settings and where patient care, registration, insurance eligibility, checking, billing, collection follow-up are specialized functions performed by different people with considerable automation of all functions (Specification page 5, lines 36-38). The payer rules for reimbursement and billing are highly complex for such enterprises and virtually impossible for a user to manually determine how services from these disparate facilities should or should not be combined for reimbursement and billing functions (Specification page 1, lines 23-27). Additionally, services are being entered by clerks/technicians in many different hospital departments over a period of several days or even weeks for a patient who is admitted as an inpatient, and these people do not have any knowledge of how the services should be billed, or whether any previous or subsequent outpatient or inpatient visits for the same patient should be combined together with the current stay on the same bill (Figure 6; page 11, line 20 to page 12, line 28).

Both Provost and Pritchard, on the other hand, describe methods oriented towards a physician's office where the technician/clerk is handling registration/interview of a patient, determination of services, entry of services and submission of claims for payment (Provost col. 4, lines 61-67; Pritchard col. 6, lines 33-56, 66-68). Physician services (i.e. professional fees) are typically exempt from the kind of billing requirements that require complex grouping, or consideration of whether other kinds of encounters (for non-physician services) should be included on the same bill. The entry person in these settings merely needs to know what services were rendered during that visit for that physician. The claimed system automatically determines payment "for multiple different services" in a healthcare enterprise that is significantly more

complex than an individual physicians office. Thus, Applicant respectfully submits that there is no common problem recognition between these references and the present claimed invention.


In view of the above remarks, it is respectfully submitted that Pritchard and Provost when taken alone or in combination provide no 35 USC 112 compliant enabling disclosure showing the features claimed in claims 1, 7, 9, 17 and 23. As claims 2-6 are dependent on claim 1, claim 8 is dependent on claim 7, claims 10-16 are dependent on claim 9, claims 18-22 are dependent on claim 17 and claims 24-27 are dependent on claim 23, it is respectfully submitted that claims 2-16, 7, 10-16, 18-22 and 24-27 are patentable for the same reasons as claim 1, 7, 9, 17 and 23 discussed above. It is thus further respectfully submitted that this rejection is satisfied and should be withdrawn.

Having fully addressed the Examiner's rejections, it is believed that, in view of the preceding amendments and remarks, this application stands in condition for allowance. Accordingly then, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the applicant's attorney at the phone number below, so that a mutually convenient date and time for a telephonic interview may be scheduled.

No fee is believed due. However, if a fee is due, please charge the additional fee to Deposit Account 19-2179.

Respectfully submitted,
Lynn Hambright et al.

Date: August 31, 2006

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